

26
7/1/03
Dm

Docket No.: 42390.P2319R

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:)	
)	
Marisetty)	
)	
Serial No.: 09/224,620)	Examiner: Auve, G.
)	
Reissue of US Patent 5,590,342)	
)	
Filed: 12/31/98)	Art Unit: 2781
)	
For: Method and Apparatus for Reducing Power)	
Consumption in a Computer System Using)	
<u>Virtual Device Drivers</u>)	

RECEIVED
2003 JUN 30 PM 2:36
BOARD OF PATENT APPEALS
AND INTERFERENCES

DECLARATION

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria Virginia 22313-1450

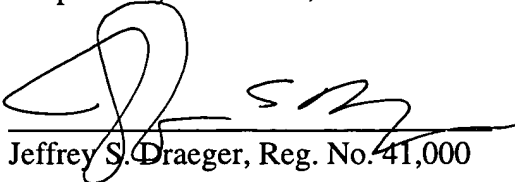
Dear Sir:

Appellant hereby submits a revised declaration for the above-referenced matter to address concerns raised in the Office Action of 4/2/2002. Applicant has forwarded this declaration to the Board of Patent Appeals and Interferences in accordance with a Notice received after the appeal was docketed. The Notice indicated that all correspondence regarding this case after it was docketed until a decision has been rendered should be sent to the Board.

If there is a deficiency in fees, please charge our Deposit Acct. No. 02-2666.

Respectfully submitted,

Date: 6/25/03


Jeffrey S. Draeger, Reg. No. 41,000

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8598

I hereby certify that this correspondence is being deposited
with the United States Postal Service as first class mail with
sufficient postage in an envelope addressed to the Commissioner
for Patents, PO Box 1450, Alexandria, Virginia 22313-1450

on June 25th, 2003

Conny Willesen
Date of Deposit

Conny Willesen
Name of Person Mailing Correspondence
6-25-03
Signature Date

DECLARATION AND POWER OF ATTORNEY FOR REISSUE PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

Method and Apparatus for Reducing Power Consumption in a Computer System Using Virtual Device Drivers

which was issued as U.S. Patent No. 5,590,342 (the "original patent") from application number 346,040, filed Nov. 29, 1994 (the "original application"), as amended in pursuit of reissue application 09/224,620 on 12/31/98, 5/27/99, 3/8/2000, 4/2/01, and 7/17/01.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above. I do not know and do not believe that the claimed invention was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the original application, that the same was not in public use or on sale in the United States of America more than one year prior to the original application, and that the invention has not been patented or made the subject of an inventor's certificate issued before the date of the original application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months (for a utility patent application) or six months (for a design patent application) prior to the original application.

I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby appoint Ramin Aghevli, Reg. No. 43,462; William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42,261; W. Thomas Babbitt, Reg. No. 39,591; Jordan M. Becker, Reg. No. 39,602; Michael A. Bernadicou, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Thomas M. Coester, Reg. No. 39,637; Florin A. Corie, Reg. No. 46,244; Mimi D. Dao, Reg. No. 45,628; Stephen M. De Klerk, Reg. No. 46,503; Daniel M. De Vos, Reg. No. 37,813; Sanjeet Dutta, Reg. No. 46,145; Tarek N. Fahmi, Reg. No. 41,402; Thomas S. Ferrill, Reg. No. 42,532; George L. Fountain, Reg. No. 36,374; Adam Furst, Reg. No. 51,710; Angelo J. Gaz, Reg. No. 45,907; Andre M. Gibbs, Reg. No. 47,593; James Y. Go, Reg. No. 40,621; Melissa A. Haapala, Reg. No. 47,622; Alan E. Heimlich, Reg. No. 48,808; James A. Henry, Reg. No. 41,064; William E. Hickman, Reg. No. 46,771; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W. Hoover II, Reg. No. 32,992; Libby H. Hope, Reg. No. 46,774; Eric S. Hyman, Reg. No. 30,139; Aslam A. Jaffrey, Reg. No. 51,841; William W. Kidd, Reg. No. 31,772; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; Steve Laut, Reg. No. 47,736; Suk S. Lee, Reg. No. 47,745; Gordon R. Lindeen III, Reg. No. 33,192; Jan C. Little, Reg. No. 41,181; Julio Loza, Reg. No. 47,758; Joseph Lutz, Reg. No. 43,765; Lawrence E. Lycke, Reg. No. 38,540; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, Reg. No. 48,095; Raul D. Martinez, Reg. No. 46,904; Paul A. Mendonsa, Reg. No. 42,879; Jonathan S. Miller, Reg. No. 48,534; Richard A. Nakashima, Reg. No. 42,023; Thien T. Nguyen, Reg. No. 43,835; Thinh V. Nguyen, Reg. No. 42,034; Robert B. O'Rourke, Reg. No. 46,972; Daniel E. Ovanezian, Reg. No. 41,236; Gregg A. Peacock, Reg. No. 45,001; Philip A. Pedigo, Reg. No. 52,107; Marina Portnova, Reg. No. 45,750; Joseph A. Pugh, Reg. No. 52,137; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Saina S. Shamilov, Reg. No. 48,266; Kevin G. Shao, Reg. No. 45,095; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Edwin H. Taylor, Reg. No. 25,129; Lisa Tom, Reg. No. 52,291; John F.

Travis, Reg. No. 43,203; Kerry D. Tweet, Reg. No. 45,959; Mark C. Van Ness, Reg. No. 39,865; Thomas A. Van Zandt, Reg. No. 43,219; Lester J. Vincent, Reg. No. 31,460; Glenn E. Von Tersch, Reg. No. 41,364; John P. Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. 46,322; Thomas C. Webster, Reg. No. 46,154; and Norman Zafman, Reg. No. 26,250; my patent attorneys, and William J. Daley, Reg. No. P-52,471; Brent E. Vecchia, Reg. No. 48,011, and Lehua Wang, Reg. No. 48,023; my patent agents, of BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (408) 720-8300, and Alan K. Aldous, Reg. No. 31,905; Shireen I. Bacon, Reg. No. 40,494; R. Edward Brake, Reg. No. 37,784; Ben Burge, Reg. No. 42,372; Robert A. Burtzlaff, Reg. No. 35,466; Glen B. Choi, Reg. No. 43,546; Kenneth Cool, Reg. No. 40,570; Jeffrey S. Draeger, Reg. No. 41,000; Cynthia Thomas Faatz, Reg. No. 39,973; Christopher Gagne, Reg. No. 36,142; Sharmini N. Green, Reg. No. 41,410; Robert Greenberg, Reg. No. 44,133; Bradley Greenwald, Reg. No. 34,341; Jeffrey B. Huter, Reg. No. 41,086; John Kacvinsky, Reg. No. 40,040; Seth Z. Kalson, Reg. No. 40,670; Peter Lam, Reg. No. 44,855; Issac T. Lin, Reg. No. 50,672; David C. Lundmark, Reg. No. 42,815; Anthony Martinez, Reg. No. 44,223; Paul Nagy, Reg. No. 37,896; Dennis A. Nicholls, Reg. No. 42,036; Leo V. Novakoski, Reg. No. 37,198; Michael Proksch, Reg. No. 43,021; Kevin A. Reif, Reg. No. 36,381; Thomas C. Reynolds, Reg. No. 32,488; Crystal D. Sayles, Reg. No. 44,318; Kenneth M. Seddon, Reg. No. 43,105; Mark Seeley, Reg. No. 32,299; Steven P. Skabrat, Reg. No. 36,279; Howard A. Skaist, Reg. No. 36,008; Paul E. Steiner, Reg. No. 41,326; David Tran, Reg. No. 50,804; Calvin E. Wells, Reg. No. 43,256; Michael Willardson, Reg. No. 50,856; Robert G. Winkle, Reg. No. 37,474; Sharon Wong, Reg. No. 37,760; Steven D. Yates, Reg. No. 42,242; and Charles K. Young, Reg. No. 39,435; my patent attorneys, and George Chen, Reg. No. 50,807; Issac Lin, Reg. No. 50,672; Larry Mennemeier, Reg. No. 51,003; and Lanny Parker, Reg. No. 44,281; my patent agents, of INTEL CORPORATION; and James R. Thein, Reg. No. 31,710, my patent attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

I verily believe the original patent to be wholly or partially inoperative by reason that the patent claims less than I had a right to claim in the patent. For example, each claim of the patent is limited to a "virtual device driver". This limitation is not necessary to overcome the prior art if other limitations are included. The attorney prosecuting the original patent added this limitation deliberately, but did so in error. The error arose in the prosecution of the original application which resulted in the issuance of the patent. The attorney prosecuting the original application failed to appreciate the scope of the invention, and thus limited the claims as indicated above. All errors being corrected arose without any deceptive intention on my part. I further acknowledge my duty to disclose information which is material to the examination of the application under 37 CFR § 1.56.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First Inventor Suresh K. Marisetty
 Inventor's Signature [Signature] Date 12/10/02
 Citizenship India
 (Country)
 Post Office Address (Business or Residence or P.O. Box) 1662 Lederer Cir. San Jose, CA 95131

Indicate below with an "X" whether the Post Office Address set forth above is either:

☒ Residence Address or
☐ Business Address or other address where mail is customarily received (e.g., P.O. Box).

If the Post Office Address set forth above is not a residence address, then provide the City and State of Residence _____

(City and State of Residence)

Full Name of Sole/Second Inventor _____
Inventor's Signature _____ Date _____
Citizenship _____
(Country)
Post Office Address (Business or Residence or P.O. Box) _____

Indicate below with an "X" whether the Post Office Address set forth above is either:

____ Residence Address or
____ Business Address or other address where mail is customarily received (e.g., P.O. Box).

If the Post Office Address set forth above is not a residence address, then provide the City and State of Residence _____
(City and State of Residence)

Full Name of Sole/Third Inventor _____
Inventor's Signature _____ Date _____
Citizenship _____
(Country)
Post Office Address (Business or Residence or P.O. Box) _____

Indicate below with an "X" whether the Post Office Address set forth above is either:

____ Residence Address or
____ Business Address or other address where mail is customarily received (e.g., P.O. Box).

If the Post Office Address set forth above is not a residence address, then provide the City and State of Residence _____
(City and State of Residence)

Full Name of Sole/Fourth Inventor _____
Inventor's Signature _____ Date _____
Citizenship _____
(Country)
Post Office Address (Business or Residence or P.O. Box) _____

Indicate below with an "X" whether the Post Office Address set forth above is either:

____ Residence Address or
____ Business Address or other address where mail is customarily received (e.g., P.O. Box).

If the Post Office Address set forth above is not a residence address, then provide the City and State of Residence _____
(City and State of Residence)

Title 37, Code of Federal Regulations, Section 1.56
Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclosure information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

RECEIVED
2003 JUN 30 PM 2:36
BOARD OF PATENT APPEALS
AND INTERFERENCES